

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

DAN NAPIER and DANA NAPIER,

VS.

BEXAR COUNTY, TEXAS;  
COMMUNITY ARENA MANAGEMENT  
LTD., JAMES HUTMACHER, *Individually*  
and JOHN DOE, *Individually*

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Civil Action No. 5:11-CV-736-FB  
Jury Trial

**DEFENDANT, COMMUNITY ARENA MANAGEMENT, LTD.'S, ORIGINAL  
ANSWER TO PLAINTIFFS' SECOND AMENDED ORIGINAL COMPLAINT**

COMMUNITY ARENA MANAGEMENT, LTD., Defendant in the above styled and numbered cause and herein referred to as "Defendant," files its Original Answer to Plaintiffs' Second Amended Original Complaint:

**A.**

**Admissions and Denials**

1. Paragraph 1 is admitted.
2. Paragraph 2 is denied. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegation in the paragraph.
3. Paragraph 3 is denied. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegation in the paragraph.
4. Paragraph 4 is admitted.
5. Paragraph 5 is admitted as to service, but denied as to the remaining allegations in this paragraph.
6. Paragraph 6 is denied as it is too vague to either admit or deny at this time and Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegation in the paragraph.
7. Paragraph 7 is denied as it is too vague to either admit or deny at this time and Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegation in the paragraph.
8. Paragraph 8 is denied as to any wrongdoing by any Defendant.

9. Paragraph 9 is denied. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations in the paragraph.

10. Paragraph 10 is denied. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations in the paragraph.

11. Paragraph 11 is denied as it is too vague to either admit or deny at this time and Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegation in the paragraph.

12. Paragraphs 12 – 18 are denied.

13. Paragraph 19 is denied in its entirety.

14. Paragraphs 20 – 41 are denied.

**B.**  
**Defenses**

15. To the extent that Plaintiffs asserts claims individually against defendants, Defendant invokes official immunity and Harlow qualified immunity as a defense. *Harlow v. Fitzgerald*, 457 U.S. 800, 102 S.Ct. 2727, 73 L.Ed.2d 396 (1982). Assuming that the individual defendants were acting as officers and employees of Bexar County, all actions or omissions which form the basis of Plaintiffs' complaint under federal law against the defendants were actions or omissions attending their performance of official duties and were undertaken within the scope of their discretionary authority. In addition, Defendant asserts that at all relevant times any alleged actions or omissions were done in good faith.

16. Defendant denies that the alleged damages resulting to the Plaintiffs, if any, were the result of any negligent or willful act and/or omission of Defendant, but, to the contrary, any damages sustained by the Plaintiffs, if any, were solely caused by the acts, omissions, conduct and/or negligence of the Plaintiffs or acts of a third party.

17. Plaintiffs have failed to state a claim or cause of action pursuant to 42 U.S.C. §1983 upon which this Court could grant relief.

18. Defendant would show that it acted at all times in good faith and without malice, evil motive or intent or reckless or callous indifference to the rights of Plaintiffs.

19. No act or conduct of Defendant was a proximate cause of damages to Plaintiffs.

20. Plaintiffs have not incurred any damages resulting from any acts of any of this Defendant.

**C.**  
**Prayer**

For these reasons, Defendant, COMMUNITY ARENA MANAGEMENT, LTD., asks the court to enter judgment that Plaintiffs, Dan Napier and Dana Napier, take nothing, dismiss Plaintiffs' suit with prejudice, assess costs against Plaintiffs, and award Defendant all other relief the court deems appropriate.

Respectfully submitted,

By: 

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**ATTORNEY IN CHARGE FOR  
DEFENDANT, COMMUNITY ARENA  
MANAGEMENT, LTD.**

**CERTIFICATE OF SERVICE**

On the 30<sup>th</sup> day of November, I certify that a copy of Defendant, Community Arena Management, Ltd.'s, Original Answer was electronically filed on the CM/ECF system, which will automatically serve a Notice of Electronic Filing on the following attorneys in charge for Plaintiffs and Defendants:

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ROBERT J. PEREZ

I certify that Robert J. Perez is a registered CM/ECF user and that service will be accomplished by the CM/ECF system.

  
ROBERT J. PEREZ

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